

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

WRIT PETITION NO. 2214 OF 2005

Cyril Thomas Macwan.] .. Petitioner

Versus

1. The Municipal Corpn.of Gr. Mumbai]
& 5 ors.] .. Respondents

Mr. S.K. Sthalekar for the petitioner.

Mr. K.K. Singhvi, senior counsel with Mr. D.H. Mehta
for the respondents No.1 & 2.

Mr. R.M. Sawant, GP, for respondents No.3, 6.

Mr. D.J. Khambatta i/b M/s. J. Sagar & Associates
for respondent No.5.

**CORAM: R.M. LODHA &
ANOOP V. MOHTA, JJ.**

DATED: 22ND FEBRUARY, 2006

P.C. :

. Heard Mr. S.K. Sthalekar, the learned
counsel for the petitioner, Mr. K.K. Singhvi, the
learned senior counsel for the respondent No.1 and Mr.
D.. Khambatta, the learned senior counsel for the
respondent No.5.

2. *Inter alia*, the grievance of the petitioner in

this Writ Petition is that despite the reservation of Art Gallery of area 450 sq. ft. to 2500 sq. ft., the residential building on the subject plot was constructed and later on, the reservation for Art Gallery came to be deleted.

3. It is true that initially the reservation of private property of secondary school was modified into Art Gallery of area of 450 sq. ft. to maximum of 2500 sq. ft. and when the Plans were approved by the Bombay Municipal Corporation, it provided for an Art Gallery. However, subsequently, after following the procedure contemplated in law, the reservation for Art Gallery was deleted.

4. The learned counsel for the petitioner could not point out any illegality in the construction of the residential building in the light of the deletion of reservation for Art Gallery.

5. As regards the newly constructed building being heritage compliant, we are informed that as per the recommendation of the Heritage Committee, the minor changes have been made in the elevation of the building.

6. Mr. K.K. Singhvi, the learned senior counsel

for the respondent No.1 brought to our notice the extract of the minutes of MHCC meeting held on 2nd February, 2006, concerning the subject building. The extract of the minutes reads thus:

**"Case No.586/2004 Sr.No.575 Grade III
"Villa Vienna Bungalow"**

Proposal:- Proposed development on plot bearing C.T.S. No.B/859 to B/862 of village Bandra at B.J. Road, Behind "Villa Vienna Bungalow" near Band Stand (West), H/W" Ward, Mumbai.

"This is an amended proposal regarding the construction of a new building touching behind erstwhile "Villa Vienna" (Now Mannat) Bungalow. The plans for the new ground plus six storeyed structure, by maintaining the existing bungalow in the front, were earlier approved by the erstwhile MHCC. During the construction some minor modifications in the elevation etc. have been introduced and the Architect has sought the NOC of the MHCC for the same. The Architect presented the amended drawings and photographs in today's meeting. The Architect informed that all the amendments are approvable from the DC Regulations point of view. The only major amendment from heritage point of view is the introduction of the balcony at first floor level which was not there in the earlier plans. However, the same is not within the line of vision from the front road and does not affect the view of the existing bungalow. There is no change in the earlier proposed number of floors, height etc. Considering the above, it was decided by the Committee to recommend the said amendments as constructed on site for approval, purely from DCR-67 point of view, subject to its approvability being further examined and got confirmed by the concerned B.P. Dept."

7. We thus find no justifiable ground to entertain the Writ Petition in the nature of Public Interest Litigation.

8. It is disposed of accordingly.

[R.M. LODHA, J.]

[ANOOB V. MOHTA, J.]